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Applicant: Bevec

Appl. No.: 10/517,125

International Filing Date: June 5, 2003

Title: USE OF COMPOUNDS HAVING THE BIOLOGICAL ACTIVITY OF VASOACTIVE INTESTINAL PEPTIDE FOR THE TREATMENT OF SARCOIDOSIS

Attorney Docket No.: 69137-00003USPX

Pub. No.: 2006/0241028 A1

Pub. Date: October 26, 2006

**OFFICE OF PETITIONS**

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on December 26, 2006, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication wherein the foreign priority data for EP document "02012767.6" is misprinted as "02017767.6".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.<sup>1</sup>

The failure to include the proper foreign priority claim to application EP 02012767.6 on the front page of the published patent application is an Office error but it is not a material error, as required by 37 CFR 1.221(b). The error in the foreign priority claim is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance

<sup>1</sup>Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

of a patent. The specification and claims were accurately published, thus one can read and understand the content of the application. The error also does not affect the use of the patent application publication as a prior art reference, because the foreign priority date is not useable as a reference date.

On July 12, 2006, a Filing Receipt was mailed by the Office.

On July 31, 2006, Applicant's representative made a request for a corrected filing receipt. The correction in the Office electronic records was made too late in the publication process to be entered into the publication.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted or **a complete copy of the pre-grant publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB  
Commissioner for Patents  
P.O. Box 1450  
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By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



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